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May 15, 2015

VIA ECF AND HAND-DELIVERY

The Honorable Paul Oetken
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 706
New York, NY 10007

The request by Redacted Third-Party Defendant to lift the stay in this action is denied. The stay shall remain in place pending the resolution of the petitions for certiorari in *Calderon-Cardona v. Bank of New York Mellon*, No. 12-75, and *Hausler v. JP Morgan Chase Bank, N.A.*, No. 12-1264, or further order.


J. PAUL OETKEN
United States District Judge

Re: **Levin v. Bank of New York, et al.**
Case No. 09 Civ. 5900 (JPO)

June 8, 2015

Dear Judge Oetken:

This firm represents the third-party defendant [REDACTED] in the above-captioned action. We write respectfully to call the Court's attention to the Second Circuit's recent denial of the petitions for rehearing *en banc* in *Calderon-Cardona v. Bank of New York Mellon*, No. 12-75, and in its companion case *Hausler v. JP Morgan Chase Bank, N.A.*, No. 12-1264 (copies enclosed). In fact, relying on its reasoning in *Calderon-Cardona* and *Hausler*, the Second Circuit, on May 11, 2015, reversed and remanded Judge Patterson's decision directing another third-party defendant in this case to turn over certain blocked assets. *See* Second Circuit Reversal, Dkt. No. 1041. In light of these developments, [REDACTED] pending cross-motion for summary judgment should be laid to rest, with judgment rendered in favor of [REDACTED].

By way of background, the plaintiffs ("Judgment Creditors") filed a motion for partial summary judgment on June 2, 2014 (Dkt. Nos. 969 and 970). In response, [REDACTED] filed an objection and a cross-motion for summary judgment (Dkt. Nos. 984 and 985). On August 21, 2014, the Court (Patterson, J.) heard oral argument on both motions. On October 28, 2014, the United States Attorney's Office notified the Court of the two Second Circuit decisions in *Calderon-Cardona*, 770 F.3d 993 (2d Cir. 2014), and

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Hausler, 770 F.3d 207 (2d Cir. 2014), that directly resolved the very same issues related to blocked midstream EFTs held by New York banks raised in the pending motions for summary judgment. *See* U.S. Attorney Letter dated October 28, 2014, Dkt. No. 1035. Nevertheless, the Judgment Creditors requested a stay of this action pending final resolution of *Calderon-Cardona* and *Hausler*, asserting that the Second Circuit may grant rehearings. *See* Judgment Creditors' Letter dated November 6, 2014, Dkt. No. 1036.

The denial of rehearings in *Calderon-Cardona* and *Hausler* now obviate the need for a stay. This is especially the case when [REDACTED] has experienced several years of delay and hardship, having had [REDACTED] of its funds blocked and held in escrow for over five years, and when [REDACTED] was nothing more than an innocent third-party attempting to send reimbursement funds to [REDACTED] respectfully requests that the stay be lifted, with the Judgment Creditors' motion for partial summary judgment denied and [REDACTED] cross-motion for summary judgment granted.

Please find enclosed a redacted copy of this letter, filed via ECF consistent with the protective order governing this action (Dkt. No. 42), and served on all counsel of record consistent with the Court's rules of practice.

Respectfully submitted,

Handwritten signature of Eric J. Snyder, written in black ink, appearing as "Eric Snyder/SSX".

Eric J. Snyder
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Encl.

cc: All Counsel of Record (by ECF)